

No. 20-3875

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Nov 16, 2020
DEBORAH S. HUNT, Clerk

In re: NATIONAL PRESCRIPTION OPIATE)
LITIGATION)

In re: STATE OF OHIO BOARD OF)
PHARMACY,)
)
Petitioner.)

ORDER

Before: SUHRHEINRICH, GIBBONS, and KETHLEDGE, Circuit Judges.

In this multidistrict litigation, the district court ordered non-party the State of Ohio Board of Pharmacy (“the Board”) to produce additional data from its prescription monitoring database, the Ohio Automated Rx Reporting System (“OARRS”). The Board petitioned for a writ of mandamus, asking that we compel the district court to vacate its discovery order or certify the order for immediate appeal under 28 U.S.C. § 1292(b). The Board also moved to stay the district court’s order pending review of its mandamus petition.

By order entered on September 15, 2020, we directed the defendant pharmacies to file a response to the mandamus petition, invited the district court to file a response to the same, and administratively granted the Board’s motion for a stay. The district court and the defendant pharmacies then filed their respective responses. By order entered on October 8, 2020, we denied the mandamus petition for substantially the reasons stated by the district court in its response and vacated the previously entered stay. The Board now petitions for panel rehearing,

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arguing that we failed to consider its claim that the additional OARRS data sought is privileged. The Board also moves to stay the district court's discovery order pending a ruling on its rehearing petition.

Upon review, we conclude that the Board has failed to demonstrate that we overlooked or misapprehended a point of law or fact in denying its mandamus petition. *See* Fed. R. App. P. 40(a)(2). The petition for panel rehearing is therefore **DENIED**, and the motion for a stay is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written above a horizontal line.

Deborah S. Hunt, Clerk